

AMENDED IN SENATE MARCH 20, 2001

AMENDED IN SENATE MARCH 12, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 9

Introduced by Senator Morrow

January 22, 2001

An act to add Article 3.5 (commencing with Section 353.1) to Chapter 2.3 of Part 1 of Division 1 of, ~~and to repeal Sections 353.1, 353.3, 353.5, 353.7, and 353.9 of~~, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 9, as amended, Morrow. Public Utilities Commission: distributed energy resources.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations and other specified entities.

This bill would require the commission to require each electrical corporation to modify tariffs so that all customers ~~installing~~ *that install* new distributed energy resources, as defined, *in accordance with specified criteria*, are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. The bill would require the commission to require each electrical corporation, as part of its distribution planning process, to include nonutility owned distributed

energy resources as a possible alternative to investments in its distribution system in order to ensure reliable electric service at the lowest possible cost. The bill would require the commission to require each electrical corporation to adopt standard contract terms, conditions, penalties, and enforcement mechanisms for distributed energy resources units providing distribution reliability services. The bill would require the commission, in establishing the rates under the provisions of the bill, to create a firewall that segregates distribution cost recovery, as described. ~~The~~

The bill would require a local publicly owned electric utility, as defined, or a local publicly owned utility otherwise providing electrical service, to undertake a review of its rates, tariffs, and rules, as prescribed, and to hold at least one noticed public meeting to solicit public comment on the review and any recommended changes. ~~The bill would repeal the above-described provisions as of January 1, 2005.~~

The bill would require the commission to require each electrical corporation to establish new tariffs on or before January 1, ~~2005~~ 2003, for customers using distributed energy resources ~~installed on or after June 1, 2005~~. Tariffs modified under the bill would continue to apply to distributed energy resources installed before June 1, 2005, for 10 years after the date of installation, as specified. The bill would continue to subject certain distributed energy resources, after January 1, 2003, to preexisting tariffs under the bill, until June 1, 2011. The bill would require the commission to prepare and submit to the Legislature, on or before ~~March~~ June 1, ~~2004~~ 2002, a report describing its proposed methodology for determining the new rates and the process by which it will establish those rates.

Because a violation of a requirement of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 3.5 (commencing with Section 353.1) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 3.5. Distributed Energy Resources

353.1. As used in this article, “distributed energy resources” means any electric generation technology ~~installed and operational on or after May 1, 2001, located within a single facility five megawatts or smaller in aggregate capacity that primarily serves nearby electric load, is powered by any fuel other than diesel, and meets the State Air Resources Board emission standards and guidelines for distributed generation, as defined in Sections 41514.9 and 41514.10 of the Health and Safety Code. Until standards and guidelines have been adopted by the State Air Resources Board, for the purpose of this article, distributed energy resources shall meet emissions levels equivalent to _____ that meets all of the following criteria:~~

(a) Commences initial operation between May 1, 2001, and June 1, 2003, except that gas-fired distributed energy resources that are not operated in a combined heat and power application must commence operation no later than July 1, 2001.

(b) Is located within a single facility.

(c) Is five megawatts or smaller in aggregate capacity.

(d) Serves onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

(e) Is powered by any fuel other than diesel.

(f) Complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purpose of this article, distributed energy resources shall meet emissions levels equivalent to nine parts per million oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

353.3. (a) The commission shall require each electrical corporation to modify tariffs so that all customers installing new distributed energy resources in accordance with the criteria

described in Section 353.1 are served under rates, rules, and requirements identical to those of a customer within the same rate schedule that does not use distributed energy resources, and to withdraw any provisions in otherwise applicable tariffs that activate other tariffs, rates, or rules if a customer uses distributed energy resources. ~~Except~~

(b) To qualify for the tariffs described in subdivision (a), each customer shall participate in a real-time metering and pricing program, in which rates for any energy purchased from the electrical corporation reflect the actual cost to the electrical corporation of energy at the time it is consumed.

(c) Except as specified in Section 353.7, customers may not be subject to the application of additional rates or tariffs solely because of their use of distributed energy resources to serve onsite loads or over-the-fence transactions allowed under Sections 216 and 218.

353.5. The commission shall require each electrical corporation, as part of its distribution planning process, to include nonutility owned distributed energy resources as a possible alternative to investments in its distribution system in order to ensure reliable electric service at the lowest possible cost. The commission shall require each electrical corporation to adopt standard contract terms, conditions, penalties, and enforcement mechanisms for distributed energy resources units providing distribution reliability services. The commission shall review for the purpose of compliance with this section, on an annual basis, the progress of each corporation in incorporating these changes into their planning processes.

353.7. ~~Nothing~~ Notwithstanding Section 353.3, nothing in this article may result in any exemption from reasonable interconnection charges, lead to any reduction in contributions by each customer class to public purpose programs funded under Section 399.8, or relieve any customer of any obligation determined by the commission to result from participation in the purchase of power through the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code.

353.9. In establishing the rates required under this article, the commission shall create a firewall that segregates distribution cost recovery so that any net costs, taking into account the actual costs

and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, resulting from the tariff modifications granted to members of each customer class may be recovered only from that class.

353.11. A local publicly owned electric utility, as defined in subdivision (d) of Section 9604, or a local publicly owned utility otherwise providing electrical service, shall review at the earliest practicable date its rates, tariffs, and rules to identify barriers to and determine the appropriate balance of costs and benefits of, distributed energy resources in order to facilitate the installation of these resources in the interests of their customer-owners and the state, and shall hold at least one noticed public meeting to solicit public comment on the review and any recommended changes. However, notwithstanding any other provision of this article, such an entity has the sole authority to undertake such a review and to make modifications to its rates, tariffs, and rules as the governing body of that utility determines to be necessary.

~~353.13. Sections 353.1, 353.3, 353.5, 353.7, and 353.9 shall remain in effect only until January 1, 2005, and as of that date are repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.~~

~~353.14.—~~

353.13. (a) The commission shall require each electrical corporation to establish new tariffs on or before January 1, 2005 2003, for customers using distributed energy resources ~~installed on or after June 1, 2005. Distributed energy resources installed before June 1, 2005, shall be subject to those tariffs in existence pursuant to this article as of December 31, 2004, for a period of 10 years from the date of installation, including, but not limited to, those which do not meet all of the criteria described in Section 353.1. However, after January 1, 2003, distributed energy resources that meet all of the criteria described in Section 353.1 shall continue to be subject only to those tariffs in existence pursuant to Section 353.3, until June 1, 2011.~~ Those tariffs required pursuant to this section shall ensure that all net distribution costs incurred to serve each customer class, taking into account the actual costs and benefits of distributed energy resources, proportional to each customer class, as determined by the commission, are fully recovered only from that class. The commission shall require each electrical corporation, in

1 establishing those rates, to ensure that customers with similar load
2 profiles within a customer class will, to the extent practicable, be
3 subject to the same utility rates, regardless of their use of
4 distributed energy resources to serve onsite loads or
5 over-the-fence transactions allowed under Sections 216 and 218.
6 Customers with dedicated facilities shall remain responsible for
7 their obligations regarding payment for those facilities.

8 (b) The commission shall prepare and submit to the
9 Legislature, on or before ~~March 1, 2004~~ *June 1, 2002*, a report
10 describing its proposed methodology for determining the new
11 rates and the process by which it will establish those rates. ~~It is the~~
12 ~~intent of this Legislature that the Legislature will review the report~~
13 ~~and provide direction to the commission on how to proceed within~~
14 ~~90 days after the date of receiving the report.~~

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

